

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CARLTON LANE,

Plaintiff,

v.

JOSEPH F. TAVARES, M.D., *et al.*,

Defendants.

CIVIL ACTION NO. 3:CV-14-991

(JUDGE CAPUTO)

(MAGISTRATE JUDGE SCHWAB)

MEMORANDUM ORDER

Presently before me is Plaintiff's Statement of Appeal of Order of Magistrate Judge Susan E. Schwab (Doc. 130), which granted in part and denied in part Plaintiff's request for sanctions (Doc. 110). Specifically, Plaintiff sought the imposition of sanctions against Commonwealth Defendants for: (1) failing to comply with a court order dated December 19, 2014; (2) withdrawing filings in contravention of a court order, and instead re-filing them as a motion for summary judgment which required his counsel to repeat her review of hundreds of pages of material; and (3) inappropriate behavior during the November 25, 2014 hearing on his motion for a preliminary injunction. Magistrate Judge Schwab denied Plaintiff's request for sanctions for Commonwealth Defendants' filing of a motion for summary judgment rather than complying with the December 19, 2014 Order. Magistrate Judge Schwab noted that Commonwealth Defendants had previously been admonished for disregarding that order (Doc. 101), and she concluded that additional monetary sanctions for this conduct was not warranted. (Doc. 128, 3.) Magistrate Judge Schwab also determined that Commonwealth Defendants' counsel engaged in improper conduct at the preliminary injunction hearing, and, as a sanction, she ordered counsel to issue a formal apology letter to Lane's counsel. (*Id.* at 4-5.) Lane now appeals this non-dispositive order on the basis that the sanction imposed by Magistrate Judge Schwab fails to serve as an adequate deterrent to prevent Commonwealth Defendants' counsel from engaging in similar conduct in the future. In particular, Lane seeks the imposition of monetary sanctions against Commonwealth Defendants.

A district judge "must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to the law." Fed. R. Civ. P. 72(a); Local Rule 72.2. "[A] Magistrate Judge is accorded wide discretion in addressing non-dispositive motions." *Walsh v. Krantz*, No. 07-616, 2009 WL 321585, at *1 (M.D. Pa. Feb. 9, 2009) (Conner, J.).

Lane's appeal is denied. The sanction ordered by Magistrate Judge Schwab is not clearly erroneous or contrary to the law. Indeed, in view of my prior statements regarding the conduct of Commonwealth Defendants' counsel at the preliminary injunction hearing (Doc. 102, 22-23), the formal apology ordered to be given to Lane's counsel for this conduct, and Magistrate Judge Schwab's prior admonishment of counsel for failing to comply with a court order, I agree with Magistrate Judge Schwab that these sanctions are sufficient. The imposition of monetary sanctions in these circumstances is not appropriate.

ACCORDINGLY, IT IS HEREBY ORDERED that Plaintiff's Appeal of Order of Magistrate Judge Susan E. Schwab (Doc. 130) is **DENIED**.

August 17, 2015
Date

A. Richard Caputo
A. Richard Caputo
United States District Judge